

2 IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,
Plaintiff

vs.

DR. ROBERT CLARK,
MARTIN L. DRAGOVICH,
JOHN A. PALATKOVICH,
ROBERT N. NOVOTNEY,
MICHAEL J. KAZOR and
JOHN ANDRADE,
Defendants.

ORIGINAL

CRT/No. 1-CV-00-100

U.S. District Judge Ramo
Magistrate Judge Smyser

FILED
HARRISBURG, PA

JAN 29 2001

MARY E. D'ANDREA, CLERK
Per Deputy Clerk

MOTION FOR RECONSIDERATION OF JANUARY 9, 2001,
ORDER AND BRIEF IN SUPPORT

Comes now, the Plaintiff and Pro Se Counsel in the above entitled Court,

John Richard Jae, as a Layman Unlettered in the Arts & Sciences of the Law & Legal Procedures within the United States, & now files his Motion for Reconsideration of January 9, 2000, Order and Brief in Support, herein, and who, avers, deposes & states:

1. That, he is moving this Court to reconsider its January 9, 2001, Order Revoke Plaintiff's In Forma Pauperis, herein this case, pursuant to Fed. R. Civ. P. Rule 60, for the reasons & grounds as is stated below & in his Brief in Support, as follows:

On or About June 5, 2000, Plaintiff filed his 42 U.S.C. § 1983 Civil Rights Complaint, along with his Application for Leave to Proceed In Forma Pauperis, herein this case.

On June 21, 2000, this Court granted Plaintiff leave to proceed In Forma Pauperis, herein this case.

On or About August 3, 2000, Plaintiff John Richard Jae, filed his Amended Complaint, herein this case, adding Martin L. Dragovich, John A. Palatovich, Robert N. Novotney, Michael J. Kazor and John Andrade, as Party Defendants to this case.

On or About September 8, 2000, Defendants Dragovich, Palatovich, Novotney, Kazor and Andrade, filed their Motion to Revoke Plaintiff's In Forma Pauperis Status And To Defend Filing of Responsive Pleading to Plaintiff's Amended Complaint, herein this case.

On or About October 23, 2000, Corrections Defendants Dragovich, Palakovich, Novotney, Kazar and Andrade, filed their Supplemental Brief in Support of Motion to Revoke Plaintiff's Informa Pauperis Status And to Deferring of Responsive Pleading to Plaintiff's Amended Complaint along with their Supplemental Affidavit and Appendix to Corrections Defendants' Supplemental Brief in Support of Motion to Revoke Plaintiff's Informa Pauperis Status And to Deferring of Responsive Pleading to Plaintiff's Amended Complaint herein this case.

On January 2, 2001, Plaintiff turned into Prison Officer the State Correctional Institution at Greene, Pa, for mailing to the Prisoner Plaintiff Brief in Opposition to Corrections Defendants' Motion to Revoke Plaintiff's Informa Pauperis Status And to Deferring of Responsive Pleading to Plaintiff's Amended Complaint. Plaintiff's Exhibit 5 is Brief in Opposition to Corrections Defendants' Motion to Revoke Plaintiff's Informa Pauperis Status And to Deferring of Responsive Pleading to Plaintiff's Amended Complaint, herein this case.

On January 9, 2001, U.S. Magistrate Judge St. Andrew Smyser, Court, entered an order, granting Corrections Defendants' Motion to Revoke Plaintiff's Informa Pauperis Status And to Deferring of Responsive Pleading, vacating its order of June 21, 2000, granting leave to proceed Informa Pauperis in this case and revoking Plaintiff's Informa Pauperis status, herein this case, and ordering the Plaintiff to pay the full \$150.00 Filing Fee upfront all at once or, he recommended that this Action be dismissed for failure to pay the fee.

In his order of January 9, 2001, the U.S. Magistrate Judge stated that despite being granted two extensions of time, the Plaintiff failed to file any Brief in Opposition to Corrections Defendants' Motion to Revoke Plaintiff's Informa Pauperis Status And to Deferring of Responsive Pleading to Plaintiff's Amended Complaint, however, as

Brief and Relevant Evidence in Opposition to Corrections Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status and to Defer Filing of Responsive Pleading to Plaintiff's Amended Complaint, this case on January 2, 2001, and if the U.S. Magistrate had not been in such a hurry to violate the law and grant Corrections Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status and to Defer Filing of Responsive Pleading to Plaintiff's Amended Complaint, then he would have received such Plaintiff's Brief & Relevant Evidence herein this case.

Plaintiff does "not" know why Prison officials delayed in Plaintiff's Brief and Exhibits to Brief in Opposition to Corrections Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status and to Defer Filing of Responsive Pleading to Plaintiff's Amended Complaint. Plaintiff informed them in writing that such needed to be mailed out right as such was due, when he turned such in to them for mailing. delay was caused by Prison officials and was beyond his control and he should "not" be held accountable & penalized for

Plaintiff avers & submits, that, ~~once~~ once he turns in to Prison officials for mailing to the Court, such Pleading is filed at that very moment. See Houston v. Lack!!

Finally, Plaintiff avers & submits, that, based upon the foregoing, herein, as well as that stated, argued & set forth in his Brief in Opposition to Corrections Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status and to Defer Responsive Pleading to Plaintiff's ^{Amended} Complaint, which Plaintiff hereby incorporates herein by reference hereunto the same Court's January 9, 2000, order, was premature, and by law must reconsider such January 9, 2000, order herein this

1/this Plaintiff does not know not have the citations: Houston v. Lack Case, but this Court should be fair. Houston v. Lack Case, but this Court should be fair. Houston v. Lack Case, but this Court should be fair.

(w) HEREFOR, based upon the foregoing, Plaintiff John Richard Gae, prays that this Court will ^{grant this} reconsideration of its January 9, 2000 order and upon such reconsideration vacate such order and review Plaintiff's Brief in Opposition to Corrections Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status and to Deferring Responsive Pleading to Plaintiff's Amended Complaint and Related Evidence, herein this case:

AND HE SHALL EVER PRAY
RESPECTFULLY SUBMITTED:

John Richard Gae
(s) MR. JOHN RICHARD GAE,
#BQ-3219
SCT-Pittsburgh
P.O. Box 99901
Pittsburgh, PA. 15233-0901
Plaintiff and Pro Se Counsel

Dated: 24th JANUARY 2001:

JAE vs. CLARK, et al.
 CIVIL No. 1:00-CV-004090
CERTIFICATE OF SERVICE

I certify under penalty of perjury & pursuant to 28 U.S.C. § 1746, that on 1/24/01 I mailed by U.S. - 1st class mail, Postage Prepaid to the persons listed below, a true & correct carbon copy of the within Motion For Reconsideration of January 9, 2000, order And Brief In Support.

I certify under penalty of perjury & pursuant to 28 U.S.C. § 1746, that on 1/24/01, I gave to Prison Officials here, the original of the above-same document, for mailing to this Court.

MR. James A. [REDACTED] Young, Esquire
 LAVERY, FAHERTY, Young and PATTERSON, P.C.
 Attorneys At Law
 P.O. Box 1245
 Harrisburg, PA. 17108-1245
 [REDACTED]

MR. Robert M. Wolff
 Assistant Counsel
 Office of the Chief Counsel of the
 Pennsylvania Department of Corrections
 550 Hwy Drive
 Camp Hill, PA. 17011

Dated/Executed on:
 24th JANUARY 2001:
 At: Pittsburgh, Pennsylvania:

(s) John Richard Jaz
 MR. JOHN RICHARD JAZ
 Plaintiff and Pro Se Counsel